

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.4751 of 1999

-

Dated:16.02.2006

Between:

K.Venkata Subbaiah, S/o. Subbaiah,
R/o. Madhavaram Village, Vontimitta Mandal,
Cuddapah District, and others.

..... PETITIONERS

AND

The Government of Andhra Pradesh, Rep.by it's Secretary, I&CAD

Department,
Secretariat, Hyderabad, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.4751 of 1999

-

ORDER:

-

The petitioners, who are 33 in number, are residents of Madhavaram Village of Vontimitta Mandal, Kadapa District. Their lands were acquired under the Land Acquisition Act, 1894 (for short 'the Act') for the Telugu Ganga Project, and an award was passed on 13.10.1986 in the presence of petitioners. It is the case of the petitioners that not satisfied with the amount awarded, they made applications under Section 18 of the Act through their Lawyer to the second respondent seeking reference to the Civil Court. They allege that their applications were not acted upon, and therefore, after lapse of about 13 years, the present writ petition is filed seeking a direction to the second respondent to refer the proceedings to the Civil Court under Section 18 of the Act for enhancement of the compensation.

The learned Counsel for the petitioners raised two contentions. He would submit that when once an application is made under Section 18 of the Act within the time stipulated under Section 12(2) of the Act, it is the duty of the second respondent to refer the dispute regarding compensation to the Civil Court. As the second

respondent failed to discharge his duty, a writ of mandamus has to be issued. Secondly, placing reliance on two earlier judgments of this Court, being W.P.No.25305 of 1998, dated 09.09.1998, and W.P.No.23041 of 1998, dated 02.11.1998, the learned Counsel would submit that some of the landowners of the same Village filed the Writ Petitions before this Court for a similar relief, and this Court disposed of the writ petitions directing the Land Acquisition Officer to refer the applications under Section 18 of the Act.

Opposing the writ petition, the learned Assistant Government Pleader submits that the land was acquired in 1986, and after lapse of 13 years this writ petition is filed. Therefore, the relief has to be denied on the ground of laches. Secondly, he would urge that if the matters are already referred, pursuant to the orders of this Court in W.P.No.25305 of 1998 and W.P.No.23041 of 1998, the petitioners can always seek redressal by filing applications under Section 28A of the Act for redetermination of the compensation after disposal of the Original Petitions by the appropriate Civil Court.

It is now axiomatic that ordinarily, this Court would not entertain its discretion in favour of a person, who is not diligent in enforcing his rights. The delay on the part of the person to seek redressal would not change the situation even if there is a statutory duty cast on the public authority. It is no doubt true that when an appropriate application is filed within six weeks from the date of service of the notice of the award, the person aggrieved by the compensation can seek reference under Section 18 of the Act. As and when such reference is made, the Land Acquisition Officer shall have to refer the dispute to the Civil Court. But, if any application is made beyond the reasonable time, there is no such duty cast on the Land Acquisition Officer. Be that as it is, in this case even according to the petitioners, they made representations on 03.11.1986. The same were not considered for reference. In 1998 other landowners of the same Village approached this Court, but the petitioners did not take any steps to file a writ petition. This writ petition was filed on 26.02.1999, only after disposal of the said writ petitions, and the matter is kept pending before this Court for the last seven years. At this stage if a direction, as was given by this Court earlier, is given, the same would result in abnormal delay in disposal of the Original Petitions, in case they are already referred, especially, when the procedure involves issue of notice to the respondents/claimants to file their statements and adduce evidence.

In this background, this Court is not inclined to direct the second respondent to refer the applications, allegedly made by the petitioners, to the Civil Court. However, as and when the reference made to the Civil Court already, is decided enhancing the compensation awarded by the Land Acquisition Officer, it shall be open to the petitioners to avail the remedy under Section 28A of the Act by filing applications within time for redetermination of the compensation.

The Writ Petition, with the above observations, is dismissed. No costs.

(V.V.S.RAO, J)

16.02.2006

vs